



## BOARD OF PUBLIC WORKS & SAFETY AUGUST 19, 2004 MINUTES

Mayor Charles Henderson called the meeting to order at 6:03 p.m.

<b>PRESENT:</b>	Board members Warren Beville, Mayor Henderson, Kevin Hoover; Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis; and Director of Engineering Paul Peoni.
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Mr. Beville moved to accept the minutes of the regular session of August 5<sup>th</sup> as presented. Second by Mr. Beville. Vote: Ayes.

Steve Williams of Franklin Engineering came forward for Harrison Crossing, Section 1A, to ask for construction plan approval. Mr. Beville moved to approve the construction plans as discussed for Harrison Crossing, Section 1A. Second by Mr. Hoover. Vote: Ayes.

On behalf of County Line Commons Joe Meyer of KOE Engineering asked for acceptance of performance bonds, acceptance of the Inspection & Testing Agreement, acceptance of the right-of-way dedication, acceptance of a storm drainage easement, release an existing drainage easement and an existing platted utility easement. Staff is waiting for the ORIGINAL letters-of-credit (LOC). More than one improvement is shown on each LOC. Because of that, improvements listed on each LOC must be completed and inspected before release of either LOC. Per Mr. Peoni's memo of 8/19/04, Mr. Hoover moved to:

- 1) Accept performance letter-of-credit (LOC) #SCL010168 from National City Bank in the amount of \$126,294 for the installation of the dirtwork, storm sewers, erosion control, street improvements, sidewalks and signs in the public right-of-way at the County Line Commons Site.
- 2) Accept performance LOC #SCL010169 from National City Bank in the amount of \$29,953 for the installation of the private dirtwork, storm sewers and erosion control at the County Line Commons Site.
- 3) Accept the Inspection & Testing Agreement for all improvements except sanitary sewers and ratify the acceptance of the upfront 50% fee for that agreement.
- 4) Accept the dedication of public right-of-way along Meridian Street.
- 5) Accept the storm drainage easement that is rerouting the storm water, which has been out letting into the open ditch across this property, into an enclosed storm sewer pipe.
- 6) Release an existing 25 foot by 10 foot drainage easement, as recorded in Plat Book 237, Page 978 in the office of the Johnson County Recorder that currently exists on what were lots 11 and 12 of the McCrary Subdivision.
- 7) Release an existing platted 10 foot easement that currently exists on what were lots 11, 12 and 13 of the McCrary Subdivision, all subject to:
  - a) Receipt of the ORIGINAL LOC's.
  - b) Final review and approval of the LOC's by the Law Department and the Engineering Department.
  - c) Final review and approval of the legal descriptions and exhibits for all rights-of-way and easements by the Engineering Department.

Second by Mr. Beville. Vote: Ayes.

Kevin McGinnis, for Featherstone Development, LLC, requested acceptance of improvements at Featherstone, Section 2, acceptance of maintenance bonds and release of performance bonds. Mr. Peoni confirmed that a final field inspection shows all items being asked for acceptance appear to have been satisfactorily installed. The asphalt surface is not in place yet, so a performance bond for that improvement will be needed. Again per Mr. Peoni's memo, Mr. Hoover moved to:

- 1) Accept the dirtwork, storm sewers and erosion control at Featherstone Subdivision, Section 2.

- 2) Accept three (3) year maintenance bond #888605S from Developers Surety and Indemnity Company in the amount of \$145,461 for the dirtwork storm sewers and erosion control at Featherstone Subdivision, Section 2.
- 3) Release performance bond #888605S in the amount of \$727,305 for the installation of the dirtwork, storm sewers and erosion control at Featherstone Subdivision, Section 2.
- 4) Accept the stone sub base, asphalt base, asphalt binder and concrete curbs (streets) at Featherstone Subdivision, Section 2.
- 5) Accept three (3) year maintenance bond #888602S from Developers Surety and Indemnity Company in the amount of \$75,306 for the stone sub base, asphalt base, asphalt binder, concrete curbs (streets) at Featherstone Subdivision, Section 2.
- 6) Accept a performance bond in the amount of \$32,768 for the installation of the asphalt surface at Featherstone Subdivision, Section 2.
- 7) Release performance bond #888602S in the amount of \$409,299 for the installation of the streets at Featherstone Subdivision, Section 2, all contingent upon:
  - a) Receipt of a performance bond for the asphalt surface.
  - b) Final review and approval of all bonds by the Engineering and Law departments.
  - c) Final inspection of a grass swale by the Engineering Department. Repairs have been made per the developer.
  - d) Receipt of final mylar as-builts.

Second by Mr. Beville. Just to note: all maintenance bonds being asked for acceptance have the same bond number as the performance bonds that they are replacing. Vote: Ayes.

John Bartolo, P.E. with Major Engineering & Land Surveying, asked for approval of the secondary replat of lots 5 & 6 in Suburban Acres. Mr. Peoni explained this is on Riverside Drive. Three houses are built, but only two lots exist at this time, so one lot line goes through one of the houses, he added. The owner wants to replat for tax purposes. Some changes are needed on the plat, so the Engineering and Planning departments will want to review the final replat. Mr. Hoover moved to accept and execute the replat of lots 5 & 6 in Suburban Acres, with Engineering and Planning departments to give final approval. Second by Mr. Beville. Vote: Ayes.

Mike Terry of Arbor Investments, LLC next requested acceptance of improvements, acceptance of maintenance and performance bonds and execution of the plat for Southern Pines, Section 2. Mr. Peoni indicated that the improvements being asked for acceptance were fine in the field and the amounts and form of the bond were acceptable. Mr. Hoover, per Mr. Peoni's memo, moved to:

- 1) Accept the sanitary sewers at Southern Pines, Section 2.
- 2) Accept three (3) year maintenance bond #5012581 from Bond Safeguard Insurance Company in the amount of \$36,206 for the sanitary sewers at Southern Pines, Section 2.
- 3) Accept the stone sub base, asphalt base, asphalt binder, concrete curbs (streets) at Southern Pines, Section 2, including improvements along CR 75 West.
- 4) Accept three (3) year maintenance bond #5012594 from Bond Safeguard Insurance Company in the amount of \$73,568 for the stone sub base, asphalt base, asphalt binder (streets) at Southern Pines, Section 2, including the improvements to CR 75 West.
- 5) Accept three (3) year maintenance bond #5012150 from Bond Safeguard Insurance Company in the amount of \$13,812 for the concrete curbs at Southern Pines, Section 2.
- 6) Accept performance bond #5012586 from Bond Safeguard Insurance Company in the amount of \$50,298 for the installation of the asphalt surface at Southern Pines, Section 2.
- 7) Accept performance bond #5012583 from Bond Safeguard Insurance Company in the amount of \$398,118 for the installation of the dirtwork and storm sewers at Southern Pines, Section 2.
- 8) Accept performance bond #5011582 from Bond Safeguard Insurance Company in the amount of \$40,580 for the installation of the erosion control at Southern Pines, Section 2.
- 9) Accept performance bond #5012584 from Bond Safeguard Insurance Company in the amount of \$4,135 for the installation of the signs & monuments at Southern Pines, Section 2.
- 10) Accept performance bond #5012585 from Bond Safeguard Insurance Company in the amount of \$72,334 for the installation of the sidewalks at Southern Pines, Section 2.
- 11) Execute the plat, all conditioned upon:
  - a) Final review and approval of the plat by both the Engineering and Planning departments.
  - b) Receipt of final mylar as-builts.

Second by Mr. Beville. Vote: Ayes.

Mr. Terry at this time, concerning The Pines of Greenwood, Section 1, asked for release of maintenance bonds for erosion control and signs & monuments. Mr. Peoni told the Board that the improvements are in satisfactory condition. At his recommendation, Mr. Hoover moved to:

- 1) Release three (3) year maintenance bond #861685S in the amount of \$754 for the signs & monuments at Pines of Greenwood, Section 1.
- 2) Release three (3) year maintenance bond #861681S in the amount of \$5,251.46 for the erosion control at Pines of Greenwood, Section 1.

Second by Mr. Beville. Vote: Ayes.

Mr. Terry made the same request for Village Pines of Greenwood, Section 1. Once again a field inspection shows that the improvements appear to be satisfactorily installed. Mr. Hoover moved to:

- 1) Release three (3) year maintenance bond #861686S in the amount of \$111 for the signs & monuments at Village Pines of Greenwood, Section 1.
- 2) Release three (3) year maintenance bond #861682S in the amount of \$5,018.34 for the erosion control at Village Pines of Greenwood, Section 1.

Second by Mr. Beville. Vote: Ayes.

For Village Pines of Greenwood, Section 2B Mr. Terry requested that the Board accept the sidewalks, accept a maintenance bond and release a performance bond for those sidewalks. Per Mr. Peoni's memo, Mr. Hoover moved to:

- 1) Accept the sidewalks at Village Pines of Greenwood, Section 2B.
- 2) Accept a three (3) year maintenance bond in the amount of \$3,845 for the sidewalks at Village Pines of Greenwood, Section 2B.
- 3) Release performance bond #861672S in the amount of \$19,226.90 for the sidewalks at Village Pines of Greenwood, Section 2B, subject to:
  - a) Receipt of an ORIGINAL maintenance bond.
  - b) Final review and approval of the maintenance bond by both the Engineering and Law departments.

Second by Mr. Beville. Vote: Ayes.

On behalf of the Reserve at Timbers Edge Buildings 7 & 12 Asbuilt, Max Cooper of Projects Plus requested that the Board execute the plat. Mr. Hoover moved to accept and execute the plat for Reserve at Timbers Edge Buildings 7 & 12, subject to Mr. Peoni's final review and approval.

Code Enforcement Officer John Myers was next to discuss nuisance complaints. Mr. Myers reported that nuisances at 2364 Harvest Moon Drive, 2350 Harvest Moon Drive, 135 Snowflake Circle, 232 W. Wiley, 950 E. Main, 298 Polk Manor, Lots 31, 35, 37 Polk Manor, and 505 Brewer Place had been abated.

The first complaint was at 118 Kensington Park Drive, received on July 7<sup>th</sup>. This is a vacant house. The neighbor mows the front yard, but the back yard has high grass. County records indicate that the owners are John & Morgana Brown. Mr. Myers left a phone message for Mr. Brown on July 28<sup>th</sup> and told the Board that Mr. Brown had filed bankruptcy in 1999. Certified letters were sent to the Browns on July 29<sup>th</sup> and to the mortgage company. Receipt for the certified letter to First Horizon Mortgage was received. The certified letter to "The Money Store" was returned as "Undeliverable". They were still in violation as of 5:00 p.m. today. Mr. Hoover moved to find that a nuisance exists at 118 Kensington Park Drive, to direct the City Attorney to send a 10-Day Notice of Abatement and, failing that, to take whatever steps she deems appropriate to abate the nuisance and charge the costs to the property owner. Second by Mr. Hoover. Vote: Ayes.

At 2539 Summerwood Lane, there was a complaint July 21<sup>st</sup> of high grass. Mr. Myers left a 10-day notice on the property. The property was listed in a sheriff's sale on April 15<sup>th</sup>, noted Mr. Myers. Adam & Amanda Tames were shown as the owners in County records. On July 28<sup>th</sup> Code Enforcement learned that the sheriff's sale had been cancelled on this property for April and was moved to September 16<sup>th</sup>. Mr. Tames advised that he had filed bankruptcy in April, 2004. The premises were vacated in October, 2003. Certified letters were sent to the Tames at two addresses and also to Fifth Third Mortgage Company to appear at this meeting. Mr. Myers was advised by Fifth Third in Cincinnati that the property was theirs and they would have it mowed by Thursday. It was still in violation as of 5:00 p.m. today. Neighbors have been mowing the front, noted Mr. Myers, but the grass is getting high. The back yard has not been mowed for some time. Mr. Hoover moved to find that a nuisance exists at 2539 Summerwood Lane, to direct staff to issue a 7-Day Notice of Abatement, and failing that, the City Attorney take all steps she deems appropriate to remedy the situation and collect any costs against the property owner. Second by Mr. Beville. Vote: Ayes.

The last complaint concerned a large amount of trash at curbside by 144 N. Meridian Street. Mr. Myers described it as a health hazard. The property was listed for sheriff's sale on June 17<sup>th</sup>. Receipts for certified mail to the owner, David Salada, and the mortgage company were received. Inspection today showed that it is still in violation. Because of the health hazard, Republic Waste Services picked up the trash. Mr. Hoover moved to find that a nuisance exists at 144 N. Meridian Street because of the high grass that remains, that the City Attorney send a 7-Day Letter of Abatement, and failing that, that she take all steps necessary in her discretion to remedy the situation and collect any costs at her discretion. Second by Mr. Beville. Vote: Ayes.

From the audience, John Cross came forward again to talk about towing and asked that the Board consider having a written policy and having more than one towing company. He has made this request in writing, he indicated. Mr. Cross cited a newspaper article that said the Board had decided against having a contract and to have only one towing company. He expressed his frustration at being told to have equipment and a team in place before his company would be considered and at not having a written policy. Ms. Koons-Davis responded to that. She recounted that the Board had decided at the last meeting they were not going to do written rules and guidelines. That was on her advice, she recalled, because we do not want to create a property interest in the contract for each of those contractors which is more difficult to get out of if we're not satisfied. Mr. Cross asserted that the Police Chief has said consistently that this is not his decision, but the Director of Operations. He added that the Director of Operations called them and gave his approval. This was not counsel's understanding. Mayor Henderson recounted that when he was Police Chief and tried to get a contract for towing the City Attorney at that time cited case law as to why this would not be a good decision, so the decision has been in the hands of the Police Chief. Ms. Koons-Davis told Mr. Cross that we have not had complaints from the public and she trusts the Police Chief's judgment. If Mr. Cross knows of complaints, counsel indicated that he should suggest that those people should register those complaints with the City. Mr. Cross expressed his frustration and Mr. Hoover indicated that the Board had decided they were not going to micromanage that aspect of responsibility that has been delegated to the Police Chief. He told Mr. Cross that he understood his frustration in investing money and trying to get in a position to compete but reiterated that the Police Chief is to make that decision. Mayor Henderson assured Mr. Cross that he has instructed his department heads that they have an obligation to return phone calls and he will address that with Chief Hessman.

Paul Clair of C.P. Morgan came forward concerning Sweetgrass, Sections 4 & 5. He told the Board they have been through technical review and understands they had the comments addressed. Those two sections tie into the Eastside Interceptor, which is still not complete. If he cannot complete those two sections this year, Mr. Clair estimated it would be mid-fall next year before this happened. He assured the Board that the desire to get pipe in the ground and the pavement on the ground is not an attempt to start houses before the Interceptor is completed and they can make connections. He said his goal is to time completion of the development with the completion of the Interceptor. The project is at the northeast corner of Stop 18 and Worthsville Road, just west of Central Park. Mr. Peoni indicated that the Tech Committee condition, to his understanding, states that no land alteration permits are to be issued until the Eastside Interceptor, Phase 2 is installed, inspected and accepted by the Board. Ms. Koons-Davis said that Mr. Clair could request from the Plan Commission that the condition be removed. Mayor Henderson reported that his information from Atlas was a 17-week time frame for that phase of the interceptor, although it could be much shorter. Mr. Clair indicated he is only pursuing Section 4 right now. Mr. Hoover moved that, with respect to Sweetgrass, Section 4, the Board has no objection to the Plan Commission lifting the restriction on land alteration permits being issued prior to the completion of the Eastside Interceptor, subject to the City Attorney having language in place, signed by the developer, whereby the developer acknowledges that he assumes all risk and all liability for construction, making it clear that no connections would be allowed or building permits issued until the Eastside Interceptor is completed. Second by Mr. Beville. Vote: Ayes. Ms. Koons-Davis confirmed for Mr. Clair that there would have to be a hearing to take the condition off the secondary plat.

On her Status of Tasks, the City Attorney discussed the Rockland LLC project first before the Board last February. The Board had said they had no objection to the developer getting the easements and then assigning them to the City when we needed them. She had told Mr. McFarran that the easements needed to be in the usual form, but the sanitary sewer easement from Larry Morgan to Rockland has been substantially modified. The easement has been made non-exclusive and permits the grantor to plow over the easement and grant roadway access into the easement, and also permitting parking lot, sidewalks, etc. anywhere in the easement. The easement also requires the City to restore the top 10 inches of soil after excavation and preserve the original grade. We also agree that the grantor can

connect to the sewer line in the easement tract provided they have paid all customary fees to the City after the assignment of the easement. Other language permits the grantee can partially dedicate its rights as part of the plat to be recorded by the Recorder of Johnson County. She asked for direction from the Board. The consensus of the Board was to let staff (City Attorney, Director of Engineering and Sanitation Superintendent) work out the details.

On his Status of Tasks, Mr. Peoni presented the Inspection & Testing Agreement both for general and sanitary sewer improvements for Timber Valley, Section 2 and ratify the acceptance of the 50% fee. Mr. Hoover moved to accept the Inspection & Testing Agreements as described and ratify acceptance of the 50% fee. Second by Mr. Beville. Vote: Ayes.

The Reserve at Timbers Edge had originally posted a performance guarantee for erosion control for the whole site, noted Mr. Peoni. Since then, the project has been divided into two phases. They have provided performance bonds for erosion control for each individual section, which adds to the total of the first erosion control performance bond. They ask for release of the initial guarantee that covered the entire project. Mr. Beville moved to release performance letter-of-credit #99000228801A for \$95,763 from Home Federal Savings Bank. Second by Mr. Hoover. Vote: Ayes.

Mr. Peoni reported that Bowen Engineering is close to substantial completion on the Eastside Interceptor, Phase 2, with the exception of paving, fencing and some final grading. They are asking for a reduction in their retainage from \$210,959 to \$35,000. Donohue & Associates, the engineer for the project, feels that this is reasonable. It is reasonable to Mr. Peoni as well. They do need the approval of the Board before they can get the money from their escrow account. Mr. Hoover moved to grant the authority for the reduction of retainage as requested. Second by Mr. Beville. Vote: Ayes.

The Meridian Street Project has only a few minor punch list items to be taken care of, noted Mr. Peoni. He recalled that the project was started in 2002 and delayed because of utility relocations, mainly Vectren Energy. Construction actually started in June 2003. Hunt Paving developed a spreadsheet to show the subcontractor pricing, material pricing, labor costs, equipment costs, etc. Last August, said Mr. Peoni, they asked the Board to approve an increase of about 4.2% over the original contract price. Hunt Paving is asking for a determination from the Board. The increase would total \$39,938. This led to discussion focusing on utility relocation and Hunt Paving's extended timeline. Ms. Koons-Davis brought up the damages they owe the City for every day beyond the expected completion dated. The damages from October 9, 2003 to the end of July, 2004 per Mr. Peoni's calculation, total \$59,200. Mr. Hoover suggested the Board take the issue under advisement until everything is completed and delegate authority to the Mayor to negotiate final resolution of the issue. Mr. Gabehart recommended that the Board deny the request. Mr. Hoover moved to direct staff to research the terms of the contracts and determine what obligations we have to consider this claim. Second by Mr. Beville. Vote: Ayes.

Director of Operations Norm Gabehart first discussed an accident involving one of our fire trucks on July 18 at 918 Fry Road (south and west walls of the building). He asked permission to process a claim for the difference in what our insurance company is paying. Out of the estimated cost of \$8,160 the insurance company has agreed to pay \$6,516.12, said Mr. Gabehart, and the difference would be \$1,643.88 to pay out of paid insurance. Ms. Koons-Davis thought this would be setting a bad precedent. Mr. Hoover moved to follow the recommendation of the Director of Operations. Second by Mr. Beville. Vote: Ayes.

The next issue concerned the implementation of the limb pick-up program. Mr. Gabehart discussed the options explored by staff and said their collective recommendation is to purchase a Morbark 1100 from Indianapolis. He indicated that the purchase price of a tub grinder without a magnetic pulley is \$278,230; with a seven-year lease @ 3.84% APR this means \$45,092.74. Mr. Gabehart discussed the various proposals and how the new program with a tub grinder helps with manpower redeployment and cost savings. He estimated the City spent \$.5 million just on staff with the previous program. Ms. Koons-Davis clarified that there is one provider that meets the needs and specifications of the equipment we want, so there is no need to bid it out, even though the cost exceeds \$75,000. Mayor Henderson noted that the limbs are being picked up much more quickly with the new program. Mr. Hoover moved to adopt the recommendation of the Director of Operations for the acquisition of the Morbark 1100 without the magnetic end pulley with a seven-year lease as described and authorize the Mayor to sign on behalf of the Board. Second by Mr. Beville. Vote: Ayes.

Mayor Henderson moved to approve the claims through August 19<sup>th</sup>, with the exception of claim #98303 for more explanation from the Police Department. He also moved to approve the claim for Kelsay and Associates settlement. Second by Mr. Beville. Vote: Ayes.

On the issue of department heads issuing letters for the signature of claims and purchase orders, Mayor Henderson moved to be allowed to issue a letter for Mr. Beville to sign in his absence. Second by Mr. Beville. Vote: Ayes.

With no further business, the meeting adjourned at 7:50 p.m.